

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

LAMONT HEARD,

Plaintiff,

Case No. 21-10237

v.

Honorable Nancy G. Edmunds

YARNICE STRANGE,
JEFFREY OOSTERHOF,
ADAM DOUGLAS, and
CHRISTIAN ALCORN,

Defendants.

**ORDER OVERRULING PLAINTIFF'S OBJECTIONS TO THE
MAGISTRATE JUDGE'S REPORT AND RECOMMENDATION [37]**

This is a pro se prisoner civil rights lawsuit filed under 42 U.S.C. § 1983 by Plaintiff Lamont Heard bringing First Amendment retaliation claims against Defendants. (ECF No. 11.) The case has been referred to Magistrate Judge Patricia T. Morris for all pre-trial matters. (ECF No. 15.) On March 22, 2022, the Magistrate Judge issued a report and recommendation to deny Plaintiff's motion for summary judgment. (ECF No. 33.) The report noted that a party may serve and file written objections within 14 days after being served with a copy of the report and recommendation. (*Id.* at PageID.273.) Here, the report was served on the same day it was issued—March 22, 2022. As of April 19, 2022, the Court had not received any objections and issued an order accepting and adopting the report and recommendation. (ECF No. 35.) On April 28, 2022, the Court received and docketed Plaintiff's partial objections to the report. (ECF No. 37.) Those

objections had been placed in the mail and thus deemed filed on April 12, 2022.¹ This is beyond the time period provided for objections, even when adding three days as set forth in Federal Rule of Civil Procedure 6(d). Thus, Plaintiff's objections are untimely. But even if Plaintiff's objections were timely, they do not change the disposition of this matter. Plaintiff's objections relate to the Magistrate Judge's conclusion that a trier of fact could determine that Defendants Alcorn and Douglas were not personally involved in the housing unit transfer that is the basis of Plaintiff's retaliation claims. But the Court agrees with her analysis in this regard. Moreover, the Magistrate Judge also found that there is an issue of fact as to whether the housing unit transfer even constitutes an adverse act and recommended denying Plaintiff's motion for summary judgment as to all of the defendants for this reason. Plaintiff does not point to any error in this reasoning.

For the foregoing reasons, Plaintiff's objections are OVERRULED, and the Court's previous order accepting and adopting the Magistrate Judge's report and recommendation stands.

SO ORDERED.

s/Nancy G. Edmunds
Nancy G. Edmunds
United States District Judge

Dated: April 29, 2022

I hereby certify that a copy of the foregoing document was served upon counsel of record on April 29, 2022, by electronic and/or ordinary mail.

s/Lisa Bartlett
Case Manager

¹ Plaintiff states he did not receive a copy of the report and recommendation until April 9, 2022, but he does not submit any evidence substantiating this claim.